

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP (797-1101)

SUBJECT: Vacation/Abandonment

TITLE OF AGENDA ITEM:

VA 5-2-00, Epstein/Peterson Vacation

REPORT IN BRIEF:

The petitioner requests the Town vacate a portion of SW 59 Court right-of-way located east of SW 70 Avenue, extending approximately 255 feet in length east of the west limits of the site; within the platted area known as "Everglades Land Sales Co. Subdivision" as recorded in Plat Book 2, Page 34 of the Dade County Record.

The SW 59 Court right-of-way terminates at the east limits of the site, and does not provide thru access. The right-of-way will not be needed to provide access to adjoining sites, as they obtain access from other roadway. Road right-of-way will revert to the property owner and will provide additional open space and/or paved areas. Staff has received no letters of objection from utility providers. Staff therefore finds this request to be consistent with the public welfare.

PREVIOUS ACTIONS: None

CONCURRENCES: Applicable utilities have submitted letters of no objection.

Engineering Division recommends approval.

The Planning and Zoning Board recommended approval (motion carried: 5-0, January 10, 2001).

FISCAL IMPACT: Not Applicable

RECOMMENDATION(S): Motion to approve.

Attachment(s): Planning Report, Justification Letter, Plat, Sketch and Description, Plan, Land Use Map, Subject Site Map, and Aerial.

Application #: VA 5-2-00
Epstein/Peterson Vacation Request

Revisions:

Exhibit "A"

Original Report Date: December 11, 2000

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

Applicant Information

Owner:

Name: Richard W. Epstein and
Marie G. Peterson

Address: 2860 SW 85th Way

City: Davie, FL 33328

Phone: (954) 472-7810

Agent:

Name: Frank A. Utset

Address: Trade Centre South, Suite 700
100 West Cypress Creek Rd.

City: Fort Lauderdale, FL 33309

Phone: (954) 491-1120

Background Information

Date of Notifications: January 3, 2001

Number of Notifications: 19

Application Request: The applicant is requesting to vacate a portion of SW 59 Court right-of-way located east of SW 70 Avenue, extending approximately 255 feet in length east of the west limits of the site.

Address/Location: A portion of the 6700 block of SW 59 Court

Land Use Plan Designation: Special Classification Residential (2 du/ac)

Zoning: R-2, Low Density Dwelling District (2 du/ac)

Existing Use: Vacant land

Proposed Use: Open Space adjacent to single family residence

Parcel Size: 0.175 (7,650 square feet)

Surrounding Land Use:

North: Single Family Residential
South: Davie Town Center under construction
East: Canal and Hidden Cove
West: Single Family Residential

Surrounding Zoning:

North: R-2, Low Density Dwelling District (2 du/ac)
South: B-1, Neighborhood Business District & B-2, Community Business District
East: RM-10, Medium Density Dwelling District (10 du/ac)
West: R-2, Low Density Dwelling District (2 du/ac)

Zoning History

Related Zoning History: None

Previous Requests on the same property: None

Development Plan Details

The subject property abuts a .965 acre proposed single family residence for the Epstein/Peterson's. The vacated right-of-way will be incorporated into the overall site for the project as open space adjacent to the side of the residence. Road to be cul-de-saced at the west limits of the subject site.

Summary of Significant Development Review Agency Comments

The Engineering Department recommended approval of the subject request. Staff received letters of no objection from all utilities.

Applicable Codes and Ordinances

Land Development Code Section 12-310(B)(1) requires that Town Council must review and approve vacations and abandonments by Ordinance.

Comprehensive Plan Considerations

Planning Area: The proposed project is within the Planning Area No. 9 located south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and

west of the Florida Turnpike. The area is predominantly agricultural in nature with scattered low-density single family residential development. Low profile commercial development lines Griffin Road, Davie Road, and Stirling Road corridors. Commercial developments along the south side of Stirling Road are somewhat deteriorated and should be evaluated for potential redevelopment opportunities.

Flexibility Zone: The subject property is located within Flexibility Zone 102.

Concurrency Considerations: None

Applicable Goals, Objectives & Policies: None

Staff Analysis

The right-of-way is not needed to provide access for the Epstein/Peterson's project as its provided from a T-turn around at the southwest corner of their parcel and the remaining portion of SW 59 Court to the west. The right-of-way is not needed for access to the property east off the subject site, as the right-of-way dead ends into a canal at the east end of the subject site. Road right-of-way will revert to the Epstein/Peterson's and will provide additional open space adjacent to the side of the residence.

Findings of Fact

Subsections 12-310(A)(1)(a)&(b) require that review of vacation of right-of-way requests be based upon whether or not the request adversely affects access to neighboring properties and whether it will be in conflict with the public interest. Based upon this code requirement, staff finds that this request does not adversely affect adjoining properties as access is provided from either the remaining portion SW 59 Court or from SW 70 Avenue, and will not be contrary to the public interest.

Staff Recommendation

Recommendation: Based upon the above and the findings of fact in the positive, staff recommends approval of application number VA 5-2-00.

Planning and Zoning Board Recommendation

PLANNING AND ZONING BOARD RECOMMENDATION: Motion to recommended approval (Motion carried: 5-0, January 10, 2001).

Exhibits

Resolution, Justification Letter, Land Description and Sketch, Land Use Map, Subject Site Map, and Aerial.

Prepared by: ____

Reviewed by: ____

LAW OFFICES OF
Greenspoon Marder Hirschfeld Rafkin Ross & Berger
PROFESSIONAL ASSOCIATION

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Amanda Chapman⁴
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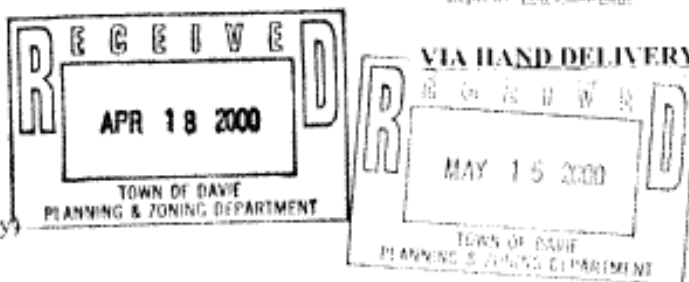
SouthTrust Bank Building • Suite 1100
115 West Central Boulevard
Orlando, Florida 32801
(407) 425-6559
Fax (407) 422-6581

April 18, 2000

Reph to: Fort Lauderdale

Jeri Baliss
Town of Davie Zoning Department
6591 Orange Drive
Davie, FL

Re: Epstein Peterson
6701 and 6711 SW 59th Court (Property)
Petition for Right of Way Vacation
File No. 0154.0001RWF



Dear Ms. Baliss:

The undersigned counsel represents Richard W. Epstein and Marie G. Peterson, his wife (the Epsteins), the owners of the above referenced Property, in connection with their construction of a single family residence upon the Property. In order to configure the residence in a certain angle and satisfy set back requirements, it is necessary to vacate a portion of the existing Road and Utility Easement in favor of the Town of Davie, recorded in Official Records Book 13023, page 874, of the Public Records of Broward County, Florida (Easement), and in connection therewith, enclosed please find the following:

1. Greenspoon, Marder, Hirschfeld, Rafkin, Ross & Berger, P.A. Operating Account check in the amount of \$930.00;
2. Completed Petition for Right of Way Vacation, along with attachments;
3. Copy of Easement in favor of the Town of Davie recorded in Official Records Book 13023, page 874;
4. Copy of Property survey depicting the Right of Way to be vacated.

Please note, that the Epsteins do not seek to vacate the existing 10 foot Florida Power & Light Easement (FP&L Easement) which is depicted on the Property survey. To the best of our knowledge, the only utility facilities which are located within the Easement, are those of FP&L, which are actually within the FP&L Easement which will not be vacated. Both FP&L and BellSouth Telecommunications are in the process of forwarding their consent to the Epsteins petition for vacation of the Easement.

As you can see from the survey of the Property, the eastern most boundary of the Property abuts a canal, which is maintained by the South Broward Drainage District. Since the Property is the last parcel at the end of a dead end, and the eastern boundary of the Property abuts a canal, the portion of the Easement which will be vacated will not be necessary to provide both access or utility services to other parcels. The only parcel which will be benefitted by the easement will be the Property. The Epsteins will during the construction of their single family residence provide

¹ Also admitted in New York

² Also admitted in Wisconsin

³ Also admitted in Texas

⁴ Also admitted in Colorado

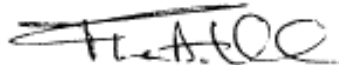
Jeri Baliss
April 18, 2000
Page 2

all utility companies with the necessary utility easements they may require across their Property. Thus, no other property owners, or utilities will be inconvenienced by the vacation of the portion of the Easement.

Your assistance and attention in connection with this matter is greatly appreciated. Please do not hesitate to contact me with any questions or comments you may have regarding this petition. I look forward to working with you.

Sincerely,

GREENSPOON, MARDER, HIRSCHFELD, RAFFIN,
ROSS & BERGER, P.A.

A handwritten signature in black ink, appearing to read "F. A. Utset", with a stylized flourish at the end.

FRANK A. UTSET
For the Firm

FAU/jg
Enclosure(s)
cc: Richard W. Epstein, Esq.
G:\AF\0154000\BWL\BWL - Vacation of easement\upl

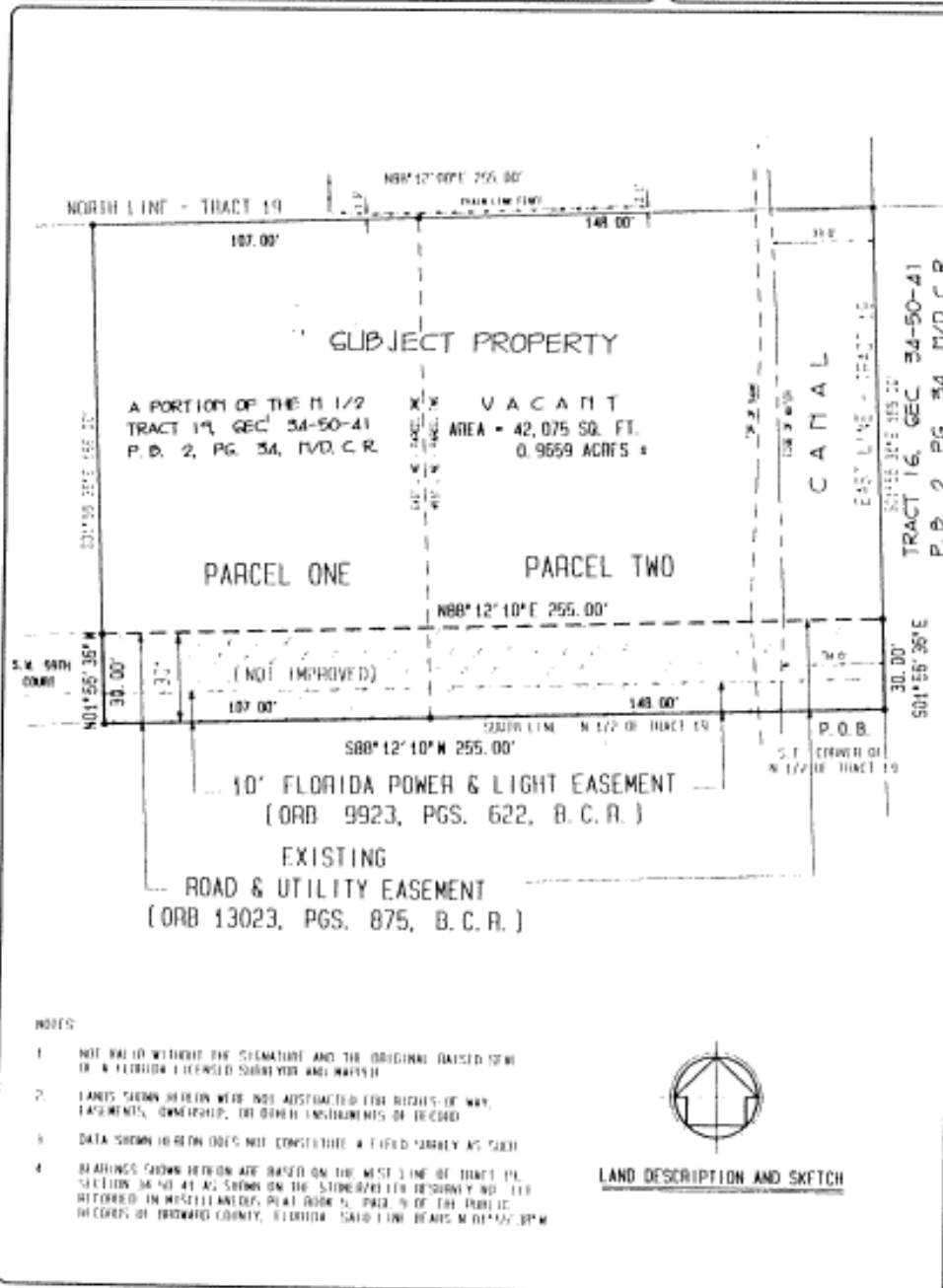
COUSINS SURVEYORS & ASSOCIATES, INC.



5,865 S.W. 76TH AVENUE
DAVIE, FLORIDA 33328
CERTIFICATE OF AUTHORIZATION: 10-6440
PHONE (754) 680-9895 FAX (754) 680-0513

PROJECT NUMBER : 2632-99

CLIENT :
GREENSPORN, WARDER, HIRSCHFELD,
RAFKIN, ROSS & BERGER



REVISIONS	DATE	BY/PG	OWN	CRD
LAND DESCRIPTION & SKETCH	02/04/01	M/A	B/C	B/C

A PORTION OF AN EXISTING 30' ROAD & UTILITY EASEMENT (ORD 13023, PG. 875, BCR)

PROPERTY ADDRESS:
S.W. 76TH AVENUE

SCALE: 1" = 40'

SHEET 2 OF 2

COUSINS SURVEYORS & ASSOCIATES, INC.



5,305 S.W. 26TH AVENUE
DAVIE, FLORIDA 33328
CERTIFICATE OF AUTHORIZATION: LB # 6440
PHONE (954) 680-9885 FAX (954) 680-0211

PROJECT NUMBER : 2632-99

CLIENT :
GREENSPON, WARDER, HIRSCHFELD,
RAFKIN, ROSS & BERGER

LAND DESCRIPTION AND SKETCH

A PORTION OF THE 30' EXISTING ROAD & UTILITY EASEMENT (000 13023, PG. 075, BCR)

A PORTION OF THE NORTH ONE-HALF (N 1/2) OF TRACT 19, SECTION 34 OF
"EVERGLADES LAND SALES CO. SUBDIVISION OF SECTIONS 27 AND 34 AND THE WEST
1/2 OF SECTIONS 26 AND 35, TOWNSHIP 50 SO. RANGE 41 E. DADE COUNTY, FLORIDA"
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 38 OF THE
PUBLIC RECORDS OF MIAMI/DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID NORTH ONE-HALF (N 1/2) OF SAID TRACT 19,

THENCE ALONG THE SOUTHERLY LINE OF SAID NORTH ONE-HALF (N 1/2) OF TRACT 19,
SOUTH 89°17'10" WEST, A DISTANCE OF 256.00 FEET,

THENCE NORTH 05°56'36" WEST, A DISTANCE OF 30.00 FEET,

THENCE NORTH 89°17'10" EAST, A DISTANCE OF 256.00 FEET,

THENCE SOUTH 05°56'36" EAST ALONG THE EAST LINE OF SAID TRACT 19, A DISTANCE
OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LIEING AND BEING IN BROWARD COUNTY, FLORIDA.

LEGEND

CPS CONCRETE BLOCK STRUCTURE
CDD CIRCLED BY
CONE CONE
DWN DOWN
ELEV FIELD ELEV AND PAGE
A/C AIR CONDITIONER SLAB
P H PLAT BOOK
E R ESTATE RECORDS
H C H HAWK COUNTY RECORDS
P O C POINT OF COMMENCEMENT
P O D POINT OF BEGINNING
F P F FLORIDA POWER & LIGHT
A CENTER ANGLE
A ARC LENGTH
R RADIUS
W P WOOD POWER POLE
W V WIRE VALVE
A N C ANCHOR
F H FIRE HYDRANT
W N W NORTH WEST

I HEREBY CERTIFY THAT THE ATTACHED "LAND DESCRIPTION AND SKETCH"
IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS
FOURTHED UNDER MY HAND AND SEAL IN MAY, 2001. I FURTHER CERTIFY
THAT THIS "LAND DESCRIPTION AND SKETCH" MEETS THE MINIMUM TECHNICAL
STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA ACCORDING TO CHAPTER
472 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.022,
FLORIDA STATUTES, SUBJECT TO THE TIMELY REVISIONS NOTED HEREON.

FOR THE FIRM OF

Richard E. Cousins
RICHARD E. COUSINS
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 45181

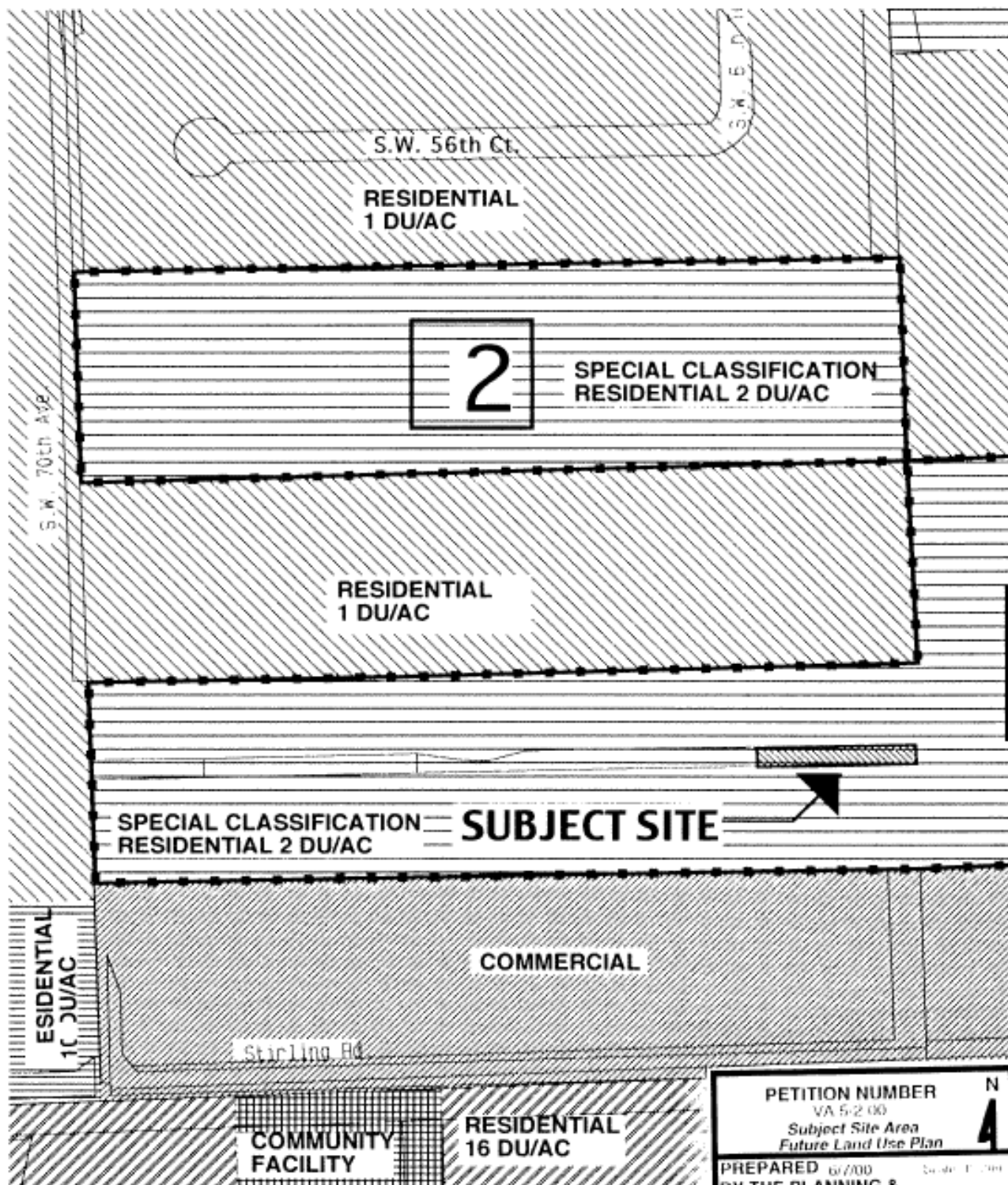
REVISIONS	DATE	REVISED	BY	CHKD
LAND DESCRIPTION & SKETCH	04/20/01	N/A	REC	Rec

A PORTION OF AN
EXISTING 30' ROAD
& UTILITY EASEMENT
(000 13023, PG. 075, BCR)

PROPERTY ADDRESS
S.W. 26TH COURT

SCALE: N/A

SHEET 1 OF 2



PETITION NUMBER
VA 5-2 00
Subject Site Area
Future Land Use Plan
PREPARED 6/7/00 BY THE PLANNING & ZONING DIVISION
Scale 1" = 100'

N
4

